

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

John Doe

Plaintiff(s),

v.

Clark University et al

Defendant(s).

CIVIL ACTION  
NO. 4:19-cv-40050-TSH

**ORDER WITH RESPECT TO MEDIATION**

August 23, 2021

HENNESSY, M.J.

The parties are hereby notified that, in accordance with the Order of Reference dated August 4, 2021 (Dkt. entry #86), the court has scheduled a *video conference* mediation conference at **10:00 am on September 28, 2021**, in Courtroom 1 – Worcester. Counsel are directed to be present with their respective clients or representatives thereof without limitation on their authority to negotiate and commit to settlement terms that, in their discretion, may be acceptable. It shall be understood that all parties and counsel will participate in the conference in good faith and with the interest of settling the matter on mutually acceptable terms. It shall also be understood that all parties, counsel, and other persons who participate will keep confidential all communications exchanged during the conference and that all statements made during the course of the mediation are privileged settlement discussions, made without prejudice to any party's legal position, and inadmissible for any purpose in any legal proceeding. It shall also be understood that no party, participant, or representative shall seek to compel the mediator to testify and/or produce any document or writing with respect to this mediation in any proceeding. Finally, it also shall be understood that all parties, counsel, and other participants agree that by participating in this court-sponsored mediation, they are bound by these understandings and conditions. By no later than **5 business days** before the mediation, each party shall provide the court under seal a confidential

settlement memorandum (marked “Confidential – Not for Docketing”) of no more than four pages addressing with candor the following points:

1. A brief analysis of the key issues involved in the litigation, including a specific breakdown of the claimed damages.
2. A description of the strongest and weakest legal and factual points in the party’s case.
3. A description of the strongest and weakest legal and factual points in the opponent’s case.
4. The status of settlement negotiations, including the last settlement proposal made by each side. In this regard, counsel are directed to confer with their clients in advance of the mediation conference to explore the party’s settlement position, and the parties are directed to exchange settlement proposals prior to the conference.
5. The settlement proposal that the party believes would be fair.

Each memorandum shall be sealed, held in confidence by the court and returned to the party at the conclusion of mediation. The memoranda shall be sent to Dawn King, Courtroom Deputy, Clerk’s Office, United States District Court, 595 Main Street, Worcester, Massachusetts 01608, or preferably, e-mailed to dawn\_king@mad.uscourts.gov.

If you believe the case is not ripe for mediation, please contact Dawn King. Counsel are asked to accommodate the court’s scheduled mediation date. If the date poses a serious conflict, please do not contact the Courtroom Deputy directly regarding mediation scheduling; instead, counsel are to confer and file an assented-to motion to continue the mediation, including therein several proposed dates for which all counsel and principals are available.

IT IS SO ORDERED.

/s/ David H. Hennessy  
DAVID H. HENNESSY  
UNITED STATES MAGISTRATE JUDGE